

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 BERNADEAN RITTMANN, *et al.*,

11 Plaintiffs,

12 v.

13 AMAZON.COM INC, *et al.*,

14 Defendants.

CASE NO. C16-1554 JCC

ORDER

15 This matter comes before the Court on the parties' joint status report (Dkt. No. 231). The
16 facts of this case have been previously outlined in detail, and the Court will not repeat them here.
17 (See Dkt. No. 115.) In July 2022, the Court determined a stay in this case is no longer warranted
18 following the Supreme Court's recent decisions in *Southwest Airlines Co. v. Saxon*, 142 S. Ct.
19 1783 (2022), and *Viking River Cruises v. Moriana*, 142 S. Ct. 1906 (2022). However, at that
20 time, the Court lifted the stay for the limited purpose of resolving two threshold issues, given the
21 complexity of this case: (1) the appointment of interim class counsel and (2) how the
22 consolidated cases in this matter should proceed. (See Dkt. No. 226 at 2.) Following the Court's
23 consideration of the parties' joint status report, the case shall proceed as described below.

24 **1. Interim Class Counsel**

25 Federal Rule of Civil Procedure 23 provides that "[t]he court may designate interim
26 class counsel to act on behalf of a putative class before determining whether to certify the action

1 as a class action.” Fed. R. Civ. P. 23(g)(3). In general, when appointing class counsel, this Court
 2 must consider: “(i) the work counsel has done in identifying or investigating potential claims in
 3 the action; (ii) counsel’s experience in handling class actions, other complex litigation, and the
 4 types of claims asserted in the action; (iii) counsel’s knowledge of the applicable law; and (iv)
 5 the resources that counsel will commit to representing the class.” Fed. R. Civ. P. 23(g)(1)(A).
 6 Class counsel must also “fairly and adequately represent the interests of the class.” Fed. R. Civ.
 7 P. 23(g)(4).

8 In this case, there is no dispute as to the qualifications of the proposed interim co-lead
 9 counsel, the work they have already done to investigate potential claims, or any other factor
 10 relevant to the designation of counsel. Plaintiffs jointly agree that the counsel for the *Rittmann*
 11 plaintiffs and counsel for the *Keller* plaintiffs would be best equipped to represent the California
 12 sub-class as co-lead interim counsel, with the counsel for the *Rittmann* plaintiffs acting as lead
 13 counsel for the other state law sub-classes and the FLSA claims. (Dkt. No. 231 at 2.) Defendants
 14 similarly agree that appointment of lead counsel will help with “the orderly management of these
 15 consolidated actions,” but express no preference as to which firm or attorneys are designated.
 16 (*Id.* at 6.) It is clear that interim class counsel will be beneficial to avoid duplication and
 17 inefficiency given the number of consolidated cases presented here.

18 For the foregoing reasons, the Court agrees that the appointment of interim class counsel
 19 is appropriate here and APPOINTS the *Rittmann* counsel and *Keller* counsel as co-lead interim
 20 counsel for the California sub-class and the *Rittmann* counsel as lead interim counsel for the
 21 other state law sub-classes (Washington, Illinois, New York, and New Jersey) and the FLSA
 22 claims.

23 **2. Next Steps**

24 The Court previously held that the stay was to remain in place to resolve the limited
 25 issues of appointing lead counsel and determining a path forward. (Dkt. No. 226 at 2.) The
 26 parties agree that a single consolidated complaint will minimize duplication and unnecessary

1 fees. Plaintiffs Rittmann, Carroll, and Wehmeyer first filed suit in this Court in October 2016.
 2 (Dkt. No. 1.) Since that time, this case has grown increasingly complex as numerous other cases
 3 were consolidated with the initial case. (See Dkt. Nos. 87, 132, 134, 200.) The Court agrees that
 4 a consolidated complaint will promote efficiency and judicial economy given that the
 5 consolidated cases all share a common question of law. (See *Id.*)

6 Thus, Plaintiffs are ORDERED to file an amended consolidated complaint within sixty
 7 (60) days of this Order.¹ Defendants will have twenty-one (21) days after the filing of the
 8 amended complaint to answer, move, or otherwise respond.

9 The parties disagree about next steps. Plaintiffs ask the Court to lift the current stay and
 10 allow this case to proceed to discovery. (Dkt. No. 231 at 4.) Defendants argue the case should
 11 remain stayed pending a ruling on a renewed motion to compel arbitration they intend to file. (*Id.*
 12 at 7.) The Court previously disagreed with Defendant's position that a continued stay is
 13 warranted based on the decisions in *Saxon* and *Viking River Cruises*. (Dkt. No. 226 at 2.) As
 14 previously noted, Defendants can address the implications of these cases in its upcoming motions
 15 practice. (*Id.*) Accordingly, the stay is LIFTED.

16 The parties continue to disagree about the appropriate timing for next steps, including
 17 discovery and future motions practice.² To prevent a free-for-all of motions from both sides, the
 18 parties are ORDERED to meet and confer and provide the Court with a joint proposed
 19 scheduling order, including deadlines for discovery, any potential motions to compel arbitration,
 20 and motions for class certification by Friday, September 30, 2022. If the parties are unable to
 21 agree, they may file a LCR 37(a)(2)(I) filing detailing any disputes associated with the proposed
 22 scheduling order.

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24 ¹ The Court is granting leave to amend for the sole purpose of consolidating the various cases
 25 before the Court into one complaint. Plaintiffs should limit the allegations and claims in the
 amended complaint to those already asserted in the existing complaints.

26 ² This includes, but is not limited to, motions to compel arbitration and motions for class
 certification.

1 It is hereby ORDERED that:

2 1. The *Rittmann* counsel and *Keller* counsel are appointed as interim co-lead counsel for
3 the California sub-class of plaintiffs. The *Rittmann* counsel is appointed as interim
4 lead counsel for the other state law sub-classes (Washington, Illinois, New York, and
5 New Jersey) and the FLSA claims.

6 2. Plaintiffs shall file an amended consolidated complaint within sixty (60) days of this
7 Order. Defendants will have twenty-one (21) days after the filing of the amended
8 complaint to answer, move, or otherwise respond.

9 3. The stay in this case is lifted.

10 4. The parties shall meet and confer and provide the Court with a joint proposed
11 scheduling order, including deadlines for discovery, any potential motions to compel
12 arbitration, and motions for class certification by Friday, September 30, 2022. If the
13 parties are unable to agree, they may file a LCR 37(a)(2)(I) filing detailing any
14 disputes associated with the proposed scheduling order.

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16 DATED this 15th day of September 2022.



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19 John C. Coughenour
20 UNITED STATES DISTRICT JUDGE
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